

from both sides of the aisle regarding his judicial nominees. Instead of praising the President for consulting with Republican Senators, the Senate Republican leadership has doubled back on what they demanded when a Republican was in the White House. No more do they talk about each nominee being entitled to an up-or-down vote. That position is abandoned and forgotten. Instead, they now seek to filibuster and delay judicial nominations. When President Bush worked with Senators across the aisle, I praised him and expedited consideration of his nominees. When President Obama reaches across the aisle, the Senate Republican leadership delays and obstructs his qualified nominees.

Although there have been nearly 110 judicial vacancies this year on our Federal circuit and district courts around the country, only 10 vacancies have been filled. That is wrong. The American people deserve better. As I have noted, there are 12 more qualified judicial nominations awaiting Senate action on the Senate Executive Calendar. Another nomination should be considered by the Judiciary Committee this week. I hope that with the session drawing to a close Judge Rogerie Thompson of Rhode Island will not be needlessly delayed. The Senate should do better and could if Senate Republicans would remove their holds and stop the delaying tactics.

During President Bush's last year in office, we had reduced judicial vacancies to as low as 34, even though it was a Presidential election year. As matters stand today, judicial vacancies have spiked, and we will start 2010 with the highest number of vacancies on article III courts since 1994, when the vacancies created by the last comprehensive judgeship bill were still being filled. While it has been nearly 20 years since we enacted a Federal judgeship bill, judicial vacancies are nearing record levels, with 97 current vacancies and another 23 already announced. If we had proceeded on the judgeship bill recommended by the U.S. Courts to address the growing burden on our Federal judiciary and provide access to justice for all Americans, vacancies would stand at 160, by far the highest on record. I know we can do better. Justice should not be delayed or denied to any American because of overburdened courts and the lack of Federal judges.

There is still time to act on these nominations before the Senate recesses this year. I hope Senate Republicans will lift their objections and allow us to proceed on the 27 nominations reported by the Judiciary Committee. Absent cooperation to confirm nominations, this Congress will be recorded in history as one of the least productive in the confirmation of judicial nominations. I hope the New Year will bring a renewed spirit of cooperation.

RECEIPT OF ASYLUM

Mr. LEAHY. Mr. President, I am pleased to learn that, after 14 years of legal struggle, Ms. Rody Alvarado has finally received asylum in the United States. The details of Ms. Alvarado's case are shocking. She suffered from horrific domestic violence in her home country of Guatemala and sought protection in the United States under our asylum laws. Because persecution of this type had not previously been recognized as a basis for refugee or asylum protection, Ms. Alvarado was forced to fight a long legal battle to win her case.

The administrations of three different Presidents—Clinton, Bush and Obama—have grappled with how to handle gender-based asylum claims, but the resolution of this case brings us closer to the end of this journey. Ms. Alvarado can finally feel safe here in the United States because she is no longer at risk of being deported to Guatemala. The Obama administration must now issue regulations to ensure that other victims of domestic violence whose abuse rises to the level of persecution can obtain the same protection as refugees or asylees.

Ms. Alvarado fled Guatemala in 1995 after being beaten daily and raped repeatedly by her husband. When she became pregnant but refused to terminate her pregnancy, her husband kicked her repeatedly in the lower spine. Ms. Alvarado had previously tried to escape the abuse, seeking protection in another part of Guatemala, but her husband tracked her down and threatened to kill her if she left their home again. We know that Ms. Alvarado notified Guatemalan police at least five separate times, but the police refused to respond, telling her that her desperate situation was a domestic dispute that needed to be settled at home.

Over the past 14 years, Ms. Alvarado's case has been considered by immigration judges, the Board of Immigration Appeals, BIA, five different Attorneys General, and three Secretaries of Homeland Security. Throughout this extensive consideration, the core facts of her case have never been disputed. All parties have agreed that Ms. Alvarado suffered extreme abuse at the hands of her husband and that the Guatemalan Government would not protect her. All parties agreed that she has a well-founded fear that she would be abused again if she was forced to return to Guatemala.

The dispute in Ms. Alvarado's case centered on whether the abuse she suffered was persecution under the terms of the Refugee Convention and applicable U.S. law. To obtain protection in the United States, an asylum seeker must demonstrate that they have a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group.

I first wrote to Attorney General Janet Reno in December 1999, when the BIA reversed Ms. Alvarado's grant of

asylum, concluding that her abuse was not persecution on account of membership in a particular social group. This decision was particularly troubling because it left unclear what grounds, if any, could be applied to a victim of severe domestic abuse who cannot obtain the protection of her country of origin. I wrote to Attorney General Reno again in February and September 2000 asking her to exercise her authority to review the case, called *Matter of R-A-*, and to reverse the BIA's decision. Unfortunately, the case was not reversed at that time, and it then languished for years. I wrote to Attorney General Ashcroft in June 2004 asking him to work with the Department of Homeland Security, DHS, to issue regulations to govern cases such as Ms. Alvarado's and to then decide her case in accordance with such rules. When he was a nominee to be Attorney General in January 2005, I asked Mr. Alberto Gonzales to commit to taking up the case and resolving it if he was confirmed. Mr. Gonzales promised to work with DHS to finalize regulations but did not take any action during his years as Attorney General.

Ten years after I and other Members of Congress first sought appropriate action and the fair resolution of this case, we celebrate the long-overdue outcome. While I am dismayed at the length of time Ms. Alvarado has lived with fear and uncertainty, the final resolution of this case gives me hope that abuse victims like Ms. Alvarado who meet the other conditions of asylum will be able to find safety in the United States.

The Obama administration has laid out a welcomed, new policy in its legal briefs in this case, and I thank the President, Secretary Napolitano, and Attorney General Holder for bringing this case to such a positive resolution. Yet the administration's work is not done. It must issue binding regulations so that asylum seekers whose cases have been held in limbo for years can also be resolved and that future cases are not delayed in adjudication. I urge the administration to immediately initiate a process of notice and comment rulemaking so that asylum seekers, practitioners, and other experts can contribute to the formulation of new rules.

Today, I commend Ms. Alvarado on the courage she has demonstrated over many years while seeking protection in the United States. I congratulate her and wish her all the best as she finally experiences true freedom from persecution and the full scope of liberties enjoyed by Americans.

A TRIBUTE TO ROBERT B. HEMLEY

Mr. LEAHY. Mr. President, last week, the Senate Judiciary Committee approved the media shield bill in a bipartisan vote of 14 to 5. This legislation would establish a qualified privilege for journalists to protect their confidential sources and the public's right to

know. At a time when the Senate is working to recognize the importance of protecting Americans' first amendment rights, I am proud to recognize a Burlington lawyer who was recently recognized by the Vermont Press Association for his lifetime commitment to the first amendment and the public's right to know.

On December 3, 2009, Robert B. Hemley was awarded the Matthew Lyon Award during the Association's annual awards banquet in Montpelier, Vermont. As a fellow Matthew Lyon Award recipient, I share with Robert a passion about the need for each generation to defend the first amendment rights that are so crucial to all Vermonters and to every American. Robert has worked to bring greater transparency and accountability to our government by representing journalists and newspapers in instances in which they were improperly forced to testify in violation of the first amendment, and by helping to create the Vermont Coalition for Open Government.

In each era there will always be much to do to bring greater openness and accountability to government of, by, and for the people. I am pleased to know Robert Hemley will continue to bring his expertise and dedication to this fight.

I ask unanimous consent to have printed in the RECORD an article from the St. Albans Messenger.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Albans Messenger, Dec. 1, 2009]
BURLINGTON LAWYER WINS RECOGNITION FOR
COMMITMENT TO FIRST AMENDMENT

MONTPELIER.—Burlington lawyer Robert B. Hemley has been selected to receive the Matthew Lyon Award for his lifetime commitment to the First Amendment and public's right to know the truth in Vermont.

The Vermont Press Association is scheduled to present the award to Hemley during its annual awards banquet at noon Thursday (Dec. 3) at the Capitol Plaza in Montpelier.

VPA President Bethany Dunbar, editor of the Chronicle in Barton, said Hemley has been a First Amendment leader in the fight against sealed public records, closed courtrooms and improper attempts to force reporters to testify in violation of the First Amendment. Hemley also has successfully defended the media against defamation and invasion-of-privacy lawsuits and other false claims.

The VPA created the award to honor people who have an unwavering devotion to the five freedoms within the First Amendment and to the belief that the public's right to know the truth is essential in a self-governed democracy.

The First Amendment award is named for the former Vermont congressman, who was jailed in 1798 under the Alien and Sedition Act for sending a letter to the editor criticizing President John Adams.

While Lyon was serving his federal sentence in a Vergennes jail, Vermonters re-elected him to the U.S. House of Representatives. Hemley, who is a shareholder in the Gravel and Shea law firm, has been recruited to the write the Vermont section of the national guides on libel, privacy, and access for both the media Libel Resource Center and the Reporters' Committee for Freedom of the Press for more than 20 years.

He has shared his expertise and participated in various training sessions for judges, lawyers, the media and the public. He helped create the Vermont Coalition for Open Government and has been invited through the years by the Vermont Legislature to offer testimony on several First Amendment issues.

Hemley has represented: St. Albans Messenger, Burlington Free Press, Rutland Herald, Times Argus, Valley News, Bennington Banner, the Associated Press, United Press International, USA Today, New York Times, New York Daily News, along with WCAX-TV, Vermont Public Radio and several weekly newspapers, including in Randolph, Stowe, Waitsfield and Burlington.

Before arriving in Vermont in 1976, Hemley was an assistant U.S. Attorney for the Southern District of New York and also worked for a Wall Street law firm. He earned degrees from Amherst College and New York University Law School and is listed in the Best Lawyers in America. Hemley has chaired the District Court Advisory Committee for Vermont since 1993.

He lives in Burlington with his wife, Marcia, and they have three children: Amanda, an assistant state's attorney for Dade County, Fla.; Mark, who lives in Boston, and Ian, who attends school in Atlanta.

Previous Matthew Lyon winners include Patrick J. Leahy for his work as a state prosecutor and as a U.S. senator; and Edward J. Cashman for his efforts as Chittenden Superior Court clerk, a state prosecutor and state judge.

IRAN

Mr. LEVIN. Mr. President, I want to take a few moments today to comment on recent events in Iran, the continuing protests against that nation's ruling regime, the brutal response of that regime to the legitimate protests of Iran's people, and one small step the United States can and should take to aid the people of Iran in exercising the basic human right to protest and hold their own government accountable.

As my colleagues know well, student protests in Tehran and other cities took place on Dec. 7, Student Day, the anniversary of the 1953 attacks by the shah's security services that left three student protesters dead. Just as those students sought to protest against an unjust and repressive government, so did today's students. And again, Iran's government responded with intimidation, violence and repression.

Iranian security forces, and paramilitary militias allied with government hard-liners, used teargas, batons and beatings to attack nonviolent protesters on the campus of Tehran University and at other universities. The government's chief prosecutor told the state-controlled news agency—apparently without irony—“So far we have shown restraint,” and threatened even harsher methods to end the protests.

Sadly, this is a recurring theme in Iran. Outraged by overwhelming evidence of fraud designed to keep President Ahmadinejad in power last June, students and other Iranians took to the streets. These nonviolent protests were met by the regime with escalating levels of brutality. According to a recent report from the human rights group

Amnesty International, government-sponsored violence and repression in Iran since the election has reached the highest level in 20 years. Hundreds of people have been rounded up and imprisoned, often under appalling conditions, without access to legal representation or indeed any contact with the outside world. Iranian citizens, according to the report, were charged with vague offenses unconnected to any recognizable criminal charge under Iranian law.

More than 100 were paraded before cameras in show trials, with visible signs of abuse. The Amnesty International report includes evidence that the pace of executions by the Iranian government has increased, a clear and chilling message to the regime's critics. And citizens released from detention made credible and horrific charges of abuse while in custody, including allegations of the widespread use of rape.

This deplorable record is why I and six colleagues introduced a resolution last month, approved by this body, expressing the sense of the Senate that the government of Iran has routinely violated the human rights of its citizens, and calling on the Iranian government to fulfill its obligations under international law and its own constitution to honor and protect the fundamental rights to which its citizens, and all human beings, are entitled. We recognized the need for a strong statement of condemnation of the regime's behavior, and of solidarity with those Iranians seeking to exercise their right to protest. The Iranian government must know that the world is watching.

Mr. President, there is more the United States can do. I draw my colleagues' attention to a notice from the State Department that the administration will waive certain provisions of the Iran-Iraq Arms Nonproliferation Act of 1992 with respect to the export of personal, Internet-based communications tools to Iran. This is an important response to the Iranian government's crackdown on its people. The regime has sharply curtailed the actions of foreign media representatives in Iran, making independent observations of the situation there difficult or impossible to report. Much of what we know about the regime's repression has come from first-hand accounts by Iranian citizens, distributed via Internet tools such as YouTube and Twitter. These media outlets have become vital, not only to those of us outside Iran seeking information about events within the country, but to Iranian citizens seeking to communicate with one another. And they are especially important given the near total absence of independent news media in Iran. The regime has undertaken, even before the June election, a systematic effort to eliminate newspapers or broadcasters that report critically on the government's activities. And Iran's Revolutionary Guards, closely connected to government hardliners, have sought to add media and communication companies to its growing commercial empire,